



217 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-13801-2024
Date of decision: 22nd May, 2024

Bhupender Sharma @ Rinku Pandit
...Petitioner(s)
Versus
State of Haryana
...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

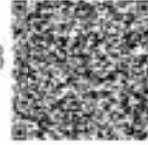
Present: Mr. Rajesh Lamba, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Date	Police Station	Sections
721	12.10.2023	Palla, District Faridabad, Haryana	377, 323, 506 and 34 of IPC and Section 18-D of The Transgender Persons (Protection of Rights) Act, 2019

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 11.10.2023, on receipt of an information from Safdarjung Hospital, New Delhi at Police Station Palla regarding admission of the complainant ‘Y’ (name withheld) who is a transgender, therein due to sustaining injuries and on the allegations of being assaulted, a police party had reached at the hospital and received medico legal report of the complainant/victim and anal swabs etc. However, the complainant/victim



was not found to be present there. The complainant reached at the Police Station on 12.10.2023 and got lodged a complaint alleging therein that on 09.10.2023, she was present at Bal Vikas Dhara, Badarpur, Delhi, wherein she was working. When the accused Pawan Sharma called her on her phone, expressing desire to meet her. She refused to meet him, but on his insistence, she called him in her office. He came to meet her and went back after sometime. Thereafter, while she was going back towards her house, he met her at toll tax barrier near Badarpur and made her board on his motorcycle by assuring to drop her at her house. However, instead thereof, he took her to a hut existing in some fields. He called some person there. On his asking, the said person struck blows with a *lathi* on her legs and thereafter, the accused Pawan Sharma committed the act of carnal intercourse against the order of nature with her; whereas, the other person including present petitioner hurled abuses to her by calling her name and after taking an amount of Rs. 1900/- which she was carrying with her, physically assaulted her and then threw her from that place. On the way, three more persons who were acquaintances of accused Pawan Sharma met her who too assaulted her physically.

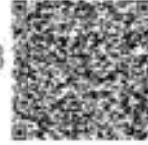
3. On the above allegations, FIR was registered. Investigation commenced. The statement of the complainant was recorded under Section 164 of Cr.P.C. The accused Pawan Sharma was arrested on 15.10.2023. In his disclosure statement, he named the petitioner as the person who has extended beatings and caused injuries to the complainant. The petitioner was



arrested on 15.10.2023. He too suffered disclosure statement, on his interrogation, thereby admitting his involvement in the crime and demarcated the place of occurrence. After completion of necessary investigation and usual formalities, challan was presented in the Court. Presently, the petitioner along with the co-accused is facing trial for commission of aforementioned offences. He had moved an application for grant of regular bail before the learned trial Court which was dismissed vide order dated 01.03.2024.

4. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case only on the basis of disclosure statement of co-accused which is not admissible in evidence. The complainant has since been examined. The allegations of commission of offences punishable under Section 377 of IPC and Section 18-D of the Act, 2019 are not made out against him. He is in custody since 15.10.2023. The trial is likely to take time. His further detention would not serve any useful purpose. There are no chances of petitioner's intimidating the complainant or any other witness. The complainant is alleged to have sustained injuries at the hands of the petitioner and five more persons but the medico legal report of the complainant did not corroborate this fact as only two abrasion were found on her person. Therefore, it is argued that the petitioner deserves to be extended benefit of bail.

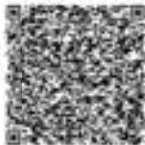
5. Status report has been filed by respondent-State, as per which,



there are serious allegations against the petitioner, who had facilitated commission of offence punishable under Section 377 of IPC by the co-accused Pawan Sharma and not only disrobed the complainant who is a transgender, but also physically assaulted, criminally intimidated and abused her. It is also submitted that the complainant has fully supported the version of the prosecution in her sworn deposition. The trial is going at a fast pace. There are chances of petitioner's absconding, if extended benefit of bail. Therefore, it is argued that the petition does not deserve to be allowed.

6. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

7. The allegations against the petitioner are that as on 09.10.2023, he was called by the co-accused Pawan Sharma, at some hut, where the complainant who is a transgender person was taken by him. The co-accused had committed the act of carnal intercourse upon her against the order of nature, whereas, the present petitioner had physically assaulted, criminally intimidated and verbally abused the complainant. The allegations qua commission of offence punishable under Section 377 of IPC are not levelled as against the petitioner. He is in custody since 15.10.2023. There are no chances of petitioner's intimidating the complainant as she has already been examined. The main allegations against him are that of physically assaulting and criminally intimidating the complainant. Keeping in view facts and circumstances of the case and that conclusion of the trial is likely to take



time; no useful purpose would be served by keeping him in custody anymore; but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition deserves to be allowed. Hence, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

8. Since the main petition has been allowed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

22nd May, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | Yes |